

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

THE KROGER CO.,	:	Case No.: C-1-02-439
	:	
Plaintiff,	:	Beckwith, J.
	:	Sherman, M.J.
	:	
v.	:	<u>MOTION TO DEPOSIT FUNDS IN</u>
	:	<u>DISPUTE WITH THE REGISTRY OF THE</u>
	:	<u>COURT</u>
MALEASE FOODS CORP.,	:	
	:	
	:	
Defendant.	:	

Pursuant to the Federal Rules of Civil Procedure and Local Rule 67, Kroger’s Motion of September 30, 2003 (Doc. No. 24), the Court’s Order granting this Motion on October 6, 2003, and the Court’s Order of January 8, 2004, Plaintiff The Kroger Co. (“Kroger”) moves this Court to accept and escrow a second payment of \$50,000.00 that is currently under dispute in the above action. This payment is identical to the prior payment that comes at six-month increments and is related to the pending action between Kroger and Defendant Malease Foods Corp. (“Malease”). Kroger further moves this Court to accept and escrow any similar future payments that may arguably be due Malease that may arise and be in dispute during this case.

As with the October 2003 payment, this April 2004 escrow amount is in dispute and should not be paid to Malease unless they prevail in this action.

Respectfully submitted,

/s/ Douglas R. Dennis

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CERTIFICATE OF SERVICE

I hereby certify that on March 26, 2004, a copy of the foregoing was filed electronically. Notice of this filing will be sent to all parties by operation of the Court's electronic filing system and copies will be mailed via U.S. mail to those parties who are not served via the Court's electronic filing system. Parties may access this filing through the Court's system.

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